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OFFICE OF PETITIONS

In re Application of
Mitsuaki Oshima et al.
Application No. 09/668,068
Filed: July 15, 2002
Attorney Docket Number: 2000_1309

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: DECISION GRANTING
: PETITION
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This is a decision on the June 22, 2004, "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application. The petition is also being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.173(a)(1).

The petition is **GRANTED**.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on August 22, 2003. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d).

37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on August 22, 2003, is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The waiver request is predicated upon the fact that the Examiner required a substitute specification because of the length of the specification and the number of amendments. It is noted that the requirement for a substitute specification is not set out in the May 22, 2003 non-Final Office Action however, petitioner points to the requirement having been made in a telephone conversation in connection with reissue application no. 09/686,464, "which is also a divisional application of reissue application 09/244,037", and that

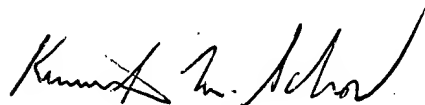
"substitute specifications would be required in all of the related reissue applications of U.S. patent 5,600,672 if the same specification amendments were to be entered." ¹

The instant application is a division of application no. 09/244,037 which is a reissue of patent no. 5,600,672 and according to the petition just one of many pending reissue applications of U.S. patent no. 5,600,672

A Final Office Action mailed December 24, 2003 acknowledged receipt and accepted the substitute specification submitted August 22, 2003. This basis is considered to be sufficient for granting the petition. The rule will be waived, since there is no other way to present the substitute specification that was required by the examiner, and that requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is **GRANTED**.
2. The substitute specification filed on August 22, 2003 is accepted, and has been entered.
3. The reissue application file is being forwarded to Technology Center 2634 for further action as appropriate.
4. Telephone inquiries with regard to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.
5. Telephone inquiries regarding the reissue application should be directed to Stephen Chin, TC2634 SPE, at (571) 272-3056.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

¹ No other record of the referenced telephone conversation can be found in this application file.